

1 Francesco Benavides, CSBN 258924  
2 Law Offices of Francesco Benavides  
3 1990 N. California Blvd. Suite 20  
4 Walnut Creek, CA 94596  
5 Tel: (925) 222-7071  
6 Fax: (925) 522-5306  
7 Email: [francesco@benavidesdisabilitylaw.com](mailto:francesco@benavidesdisabilitylaw.com)

8 Attorney for Plaintiff  
9 JENNIFER LYNN SMITH  
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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA  
SACRAMENTO DIVISION

JENNIFER LYNN SMITH,

Plaintiff,

v.

KILOLO KIJAKAZI, Acting  
Commissioner of Social Security,

Defendant.

Case No. 2:21-cv-02409-JDP

STIPULATION FOR THE AWARD AND  
PAYMENT OF ATTORNEY FEES AND  
EXPENSES PURSUANT TO THE  
EQUAL ACCESS TO JUSTICE ACT;  
[PROPOSED] ORDER

IT IS HEREBY STIPULATED by and between the parties through their undersigned counsel, subject to the approval of the Court, that Plaintiff be awarded attorney fees of \$1,200.00 under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d). This amount represents compensation for all legal services rendered on behalf of Plaintiff by counsel in connection with this civil action, in accordance with 28 U.S.C. § 2412(d).

After the Court issues an order for EAJA fees to Plaintiff, the government will consider the matter of Plaintiff's assignment of EAJA fees to counsel. Pursuant to *Astrue v. Ratliff*, 560 U.S. 586, 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010), the ability

1 to honor the assignment will depend on whether the fees are subject to any offset  
2 allowed under the United States Department of the Treasury's Offset Program. After  
3 the order for EAJA fees is entered, the government will determine whether they are  
4 subject to any offset.

5 Fees shall be made payable to Plaintiff, but if the Department of the Treasury  
6 determines that Plaintiff does not owe a federal debt, then the government shall cause  
7 the payment of fees, expenses and costs to be made directly to Plaintiff's counsel,  
8 Francesco Benavides, pursuant to the assignment executed by Plaintiff.

9 This stipulation constitutes a compromise settlement of Plaintiff's request for  
10 EAJA attorney fees and does not constitute an admission of liability on the part of  
11 Defendant under the EAJA or otherwise. Payment of the agreed amount shall  
12 constitute a complete release from, and bar to, any and all claims that Plaintiff and/or  
13 Francesco Benavides, including Law Offices of Francesco Benavides, may have  
14 relating to EAJA attorney fees in connection with this action.

15 This award is without prejudice to the rights of Francesco Benavides to seek  
16 Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the savings  
17 clause provisions of the EAJA.

19 Respectfully submitted,

21 Dated: May 18, 2022

22 Law Offices of Francesco Benavides

23 By: /s/ Francesco Benavides  
24 FRANCESCO P. BENAVIDES  
25 Attorney for Plaintiff

1 Dated: May 18, 2022

PHILLIP A. TALBERT  
United States Attorney  
PETER THOMPSON  
Acting Regional Chief Counsel, Region IX  
Social Security Administration

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3 By: *Mary Tsai\**  
4 MARY TSAI  
5 Special Assistant U.S. Attorney  
6 Attorneys for Defendant  
7 (\*Permission to use electronic signature  
8 obtained via email on May 17, 2022).  
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## [PROPOSED] ORDER

Based upon the parties' Stipulation for the Award and Payment of Equal Access to Justice Act Fees and Expenses, **IT IS ORDERED** that attorney fees of \$1,200.00 as authorized by 28 U.S.C. § 2412 be awarded subject to the terms of the Stipulation.

IT IS SO ORDERED.

Dated: May 20, 2022

Jeremy Peterson  
JEREMY D. PETERSON  
UNITED STATES MAGISTRATE JUDGE